

## § 222.67

(Authority: 20 U.S.C. 7703(b)(2))

### **§ 222.67 How may a State aid program affect a local educational agency's eligibility for assistance under section 8003(b)(2)?**

The Secretary determines that an LEA is not eligible for financial assistance under section 8003(b)(2) if—

(a) The LEA is in a State that has an equalized program of State aid that meets the requirements of section 8009; and

(b) The State, in determining the LEA's eligibility for or amount of State aid, takes into consideration the portion of the LEA's payment under section 8003(b)(2) that exceeds what the LEA would receive under section 8003(b)(1).

(Authority: 20 U.S.C. 7703(b)(2))

### **§ 222.68 How does the Secretary determine whether a fiscally independent local educational agency meets the applicable tax rate requirement?**

(a) To determine whether a fiscally independent LEA, as defined in § 222.2(c), meets the applicable tax rate requirement in §§ 222.63(b)(3), 222.63(c)(2), and 222.64(a)(3), the Secretary compares the LEA's local real property tax rate for current expenditure purposes, as defined in § 222.2(c) (referred to in this part as "tax rate" or "tax rates"), with the tax rates of its generally comparable LEAs.

(b) For purposes of this section, the Secretary uses—

(1) The actual tax rate if all the real property in the LEA and its generally comparable LEAs is assessed at the same percentage of true value; or

(2) Tax rates computed under §§ 222.69–222.71.

(c) The Secretary determines that an LEA described in §§ 222.63(b), 222.63(c), or 222.64(a) meets the applicable tax rate requirement if—

(1) The LEA's tax rate is equal to at least 95 percent (or 125 percent under 222.63(c)) of the average tax rate of its generally comparable LEAs;

(2) Each of the LEA's tax rates for each classification of real property is equal to at least 95 percent (or 125 percent under 222.63(c)) of each of the average tax rates of its generally com-

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parable LEAs for the same classification of property;

(3) The LEA taxes all of its real property at the maximum rates allowed by the State, if those maximum rates apply uniformly to all LEAs in the State and the State does not permit any rates higher than the maximum; or

(4) The LEA has no taxable real property.

(Authority: 20 U.S.C. 7703(b)(2))

### **§ 222.69 What tax rates does the Secretary use if real property is assessed at different percentages of true value?**

If the real property of an LEA and its generally comparable LEAs consists of one classification of property but the property is assessed at different percentages of true value in the different LEAs, the Secretary determines whether the LEA meets the applicable tax rate requirement under § 222.68(c)(1) by using tax rates computed by—

(a) Multiplying the LEA's actual tax rate for real property by the percentage of true value assigned to that property for tax purposes; and

(b) Performing the computation in paragraph (a) of this section for each of its generally comparable LEAs and determining the average of those computed tax rates.

(Authority: 20 U.S.C. 7703(b)(2))

### **§ 222.70 What tax rates does the Secretary use if two or more different classifications of real property are taxed at different rates?**

If the real property of an LEA and its generally comparable LEAs consists of two or more classifications of real property taxed at different rates, the Secretary determines whether the LEA meets the applicable tax rate requirement under § 222.68(c)(1) or (2) by using one of the following:

(a) Actual tax rates for each of the classifications of real property.

(b) Tax rates computed in accordance with § 222.69 for each of the classifications of real property.

(c) Tax rates computed by—

(1) Determining the total true value of all real property in the LEA by dividing the assessed value of each classification of real property in the LEA